

STATE OF NEW MEXICO  
COUNTY OF VALENCIA  
THIRTEENTH JUDICIAL DISTRICT COURT

No. D-1314-CV-2010-00849  
Judge: Mitchell

THE SOCORRO ELECTRIC COOPERATIVE INC.,

Plaintiff,

vs.

CHARLENE WEST, individually, and  
as a member of the Socorro Electric Cooperative, all  
UNNAMED MEMBER/OWNERS of the Socorro  
Electric Cooperative, Inc. individually, and as  
Members of the Socorro Electric Cooperative,  
The MOUNTAIN MAIL Newspaper, individually,  
and as a member of the Socorro Electric Cooperative,  
and the EL DEFENSOR CHIEFTAIN Newspaper,  
individually and as a member of the Socorro  
Electric Cooperative,

Defendants.

**REPLY TO PLAINTIFF'S RESPONSE TO DEFENDANTS FITCH  
AND TAUSCH'S MOTION FOR ATTORNEYS FEES AND COSTS**

In reply to Plaintiff's Response to Defendants Fitch and Tausch's Motion for  
Attorney's Fees and Costs, said Defendants state:

[**Note:** the following points are numbered to correspond with the points raised in  
Plaintiff's Response.]

I. Section 44-6-11 of the Declaratory Judgment Act provides:

In any proceeding under the Declaratory Judgment Act [44-6-1 to 44-6-15  
NMSA 1978], the court may make an award of costs as may seem  
equitable and just.

Typically, attorney's fees are considered costs.

II. Defendants Fitch and Tausch are not *pro se*. Initially, since the Thirteenth Judicial District rules allowed only *pro se* litigants to physically file papers and did not allow lawyers to file electronically without training, Defendants Fitch and Tausch were required to file *pro se*. As soon as training in electronic filing was completed (August 30, 2010), the law firm of Fitch & Tausch LLC appeared for Defendants Fitch and Tausch.

III. The Court has the ability, based upon his honor's own legal and judicial experience, to ascertain that the fees shown for the work described are reasonable.

IV. Defendants Fitch and Tausch are not aware that Plaintiff filed a motion to dismiss its Complaint. Defendants Fitch and Tausch never refused to join in a dismissal of this law suit.

V. The basis for the award of costs against the trustees and their attorney is that the trustees authorized this frivolous law suit as recommended by Plaintiff's attorney.

VI. Fitch and Tausch agree; the Court would have to look at the fund.

Plaintiff, in its lengthy Response, ignores the fact that the Court directed the prevailing parties to file their requests for attorney's fees. In addition, there is a complete absence of "good grounds" as required by Rule 1-011 NMRA for bringing and maintaining this action.

**WHEREFORE**, Defendants Fitch and Tausch respectfully request their Motion for Attorney's Fees be granted.

**RESPECTFULLY SUBMITTED BY:**  
Fitch & Tausch, LLC

By: s/Thomas G. Fitch  
Thomas G. Fitch  
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**Service Certificate**

I certify that I served a true copy of the foregoing Reply to Plaintiff's Response to Motion for Attorneys Fees and Costs upon Plaintiff's counsel and other parties of record by mail or electronic service as follows:

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on this 29th day of July, 2011.

s/Thomas G. Fitch  
Thomas G. Fitch